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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,563	05/16/2001	Scott Harris Bloom	5957-28504	4115
35690	7590	01/12/2006	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			SEDIGHIAN, REZA	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/859,563

Applicant(s)

BLOOM ET AL.

Examiner

M. R. Sedighian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-36 and 38-44 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-23, 25-31 and 36-44 is/are allowed.  
6) ☒ Claim(s) 24 and 32-34 is/are rejected.  
7) ☒ Claim(s) 35 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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1. This communication is responsive to applicant's 10/27/05 amendments and remarks. The amendments have been entered. Claims 1-12, 14-36, and 38-44 are now pending.
2. The indicated allowability of claims 24 and 32 are withdrawn in view of the newly discovered reference(s) to Nichols (US Patent No: 5,977,908), Chisholm et al. (US Patent No: 6,934,629), and Hagiwara et al. (US Patent No: 5,926,151). Rejections based on the newly cited reference(s) follow.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Nichols (US Patent No: 5,977,908).

Regarding claim 24, Nichols teaches a system (figs. 3A, 3B) for positioning and aligning a receiver/transmitter pair (370, 378, fig. 3B) in a communication node (col. 2, lines 55-59) with the node part of a wireless communication network (col. 5, lines 16-43), the system comprising: a position determining device (366, fig. 3B) configured to determine the position and bearing of the system for positioning (col. 5, lines 20-30); a

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tiltmeter (372, fig. 3B) configured to determine the pitch and roll orientation of the system for positioning within the network and to determine roll and pitch angles of the node (col. 5, lines 16-32, col. 8, lines 12-13, 63-64).

5. Claim 24 is rejected under 35 U.S.C. 102(e) as being anticipated by Chisholm et al. (US Patent No: 6,934,629).

Regarding claim 24, Chisholm teaches a system (col. 2, lines 66-67 and 100, fig. 2) for positioning and aligning a receiver/transmitter pair (106, fig. 2) in a communication node (100, fig. 2) with the node part of a wireless communication network (100, 220, 200, fig. 2), the system comprising: a position determining device (102, fig. 2) configured to determine the position and bearing of the system for positioning (col. 3, lines 65-67, col. 4, lines 1-23); a tiltmeter (112, fig. 2) configured to determine the pitch and roll orientation of the system for positioning within the network and to determine roll and pitch angles of the node (col. 4, lines 58-63, col. 5, lines 1-4, 14-16, 23-30).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagiwara et al. (US Patent No: 5,926,151) in view of Chey (US Patent No: 4,626,850).

Regarding claim 32, Hagiwara teaches a node (10, figs. 1, 2) for use in a wireless communication network (col. 1, lines 5-14), comprising: a base mount (20, fig. 2); a mounting arm (12, fig. 2) connected to the base mount (col. 1, line 32) and configured to be removably attached (col. 1, lines 33-42) to a position determining device (24, fig. 2); at least one azimuth plate (13, fig. 2); a receiver/transmitter pair (14, fig. 2) mounted on the azimuth plate (col. 1, lines 30-31); and a post (23, fig. 2), wherein the azimuth plate is rotatably mounted on the post (col. 1, lines 32-40) and the post is configured to align the azimuth plate with the base mount (col. 1, lines 52-63). Hagiwara differs from the claimed invention in that Hagiwara does not specifically disclose the transmitter/receiver pair are optical transmitter/receiver pair. Chey teaches optical transmitters (96, figs. 4, 5) and receivers (100, figs. 4, 5) that are mounted on an azimuth plates (104, 106, figs. 4, 5 and col. 6, lines 13-20). As it is taught by Chey, it would have been obvious to a person of ordinary skill in the art at the time of invention to incorporate an optical transmitter and receiver pair, for the transmitter and receiver apparatus 31 of Hagiwara in order to provide a high speed optical data transmission system.

Regarding claim 33, Hagiwara teaches the mounting arm is removably connected to the base mount (col. 1, lines 26-33, it is obvious that the mounting arm 12 can be removably connected to the base mount 20).

Regarding claim 34, Hagiwara teaches the mounting arm (12, fig. 2) is configured such that a position determining device (24, fig. 2) attached thereto is located a predetermined distance away from the node (col. 1, lines 32-42).

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8. Claims 35 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 1-12, 14-23, 25-31, 36, and 38-44 are allowed over prior art of record.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. R. Sedighian whose telephone number is (571) 272-3034. The examiner can normally be reached on M-F (from 9 AM to 5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
M. R. SEDIGHIAN  
PRIMARY EXAMINER